

REMARKS

The Applicant does not believe that entry of the foregoing amendment will result in the introduction of new matter into the present application for invention. Therefore, the Applicant, respectfully, requests that the above amendment be entered in and that the claims to the present application, kindly, be reconsidered.

The Office Action dated March 29, 2004 has been received and considered by the Applicants. Claims 1-20 are pending in the present application for invention. Claims 1-20 are rejected by the March 29, 2004 Office Action.

The Examiner objects to the drawings for allegedly not showing every feature of the invention specified in the claims. The Examiner states that the drawings do not illustrate any steps of Claims 1-20, such as features of claim 1, "determining a first histogram, determining a first vector corresponding to first histogram, the first histogram vector comprising elements that each correspond to a palette value of the plurality of palette values, and comparing the first histogram vector to the second histogram vector. The Applicant, respectfully, disagrees. For example, using the elements recited by Claim 1 as done by the Examiner, determining a first histogram corresponding to a distribution of values in a first dataset is shown by the block indicated by reference numeral 310, determining a plurality of palette values corresponding to a specified number of different values in the first dataset is shown by the block indicated by reference numeral 320, determining a first histogram vector corresponding to the first histogram is shown by the block indicated by reference numeral 330, the first histogram vector comprising elements that each correspond to a palette value of the plurality of palette values is shown by the block indicated by reference numeral 340, identifying values in a second dataset corresponding to the plurality of palette values, is shown by the block indicated by reference numeral 350, determining a second histogram vector corresponding to the values in the second dataset is shown by the block indicated by reference numeral 360, and comparing the first histogram vector to the second histogram vector is shown by the block indicated by reference numeral 370.

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The Applicant would like to, respectfully, point out that the actual claim language does not have to be shown as text labels for the blocks illustrated in the drawings. 37 CFR 1.83 states in the pertinent part for the Content of drawing that:

(a) The drawing in a nonprovisional application must show every feature of the invention specified in the claims. However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawing in the form of a graphical drawing symbol or a labeled representation (e.g., a labeled rectangular box).

The Applicant, respectfully, asserts that the labeled rectangular boxes in the figures are clearly sufficient to provide those skilled in the art with a proper understanding of the invention as claimed. Therefore, the Applicant declines to make the changes suggested in the Office Action because they are not necessary.

The Office Action objects to Claims 1, 13, and 17 because they lack antecedent basis. The Examiner states that Claims 1, 13, and 17 recite on line 10 "identifying values in a second dataset corresponding to the plurality of palette values". The Examiner states that the term "the plurality of palette values" lacks antecedent basis. The Applicant, respectfully, disagrees. Each of Claims 1, 13 and 17 properly introduce "a plurality of palette values corresponding to a specified number of different values in the first dataset" before reciting "identifying values in a second dataset corresponding to the plurality of palette values". Therefore, there is no antecedent basis problem for Claims 1, 13 and 17.

The Office Action rejects Claims 1-20 under the provisions of 35 U.S.C. §101 as reciting a non-Statutory process. The Examiner states that independent Claims 1, 13, and 17 recite a process that consists solely of mathematical operations without practical application in the technological arts such as image processing for pattern matching of image data or image retrieval from database. The Applicant respectfully submits that the independent Claims 1, 13 and 17 recite statutory subject matter. Claims 1, 13 and 17 recite elements that instruct a computer to search datasets for a target that is represent by the first histogram. Claims 1, 13 and 17 force a computer to perform the operations recited by the

elements of those claims. A tangible result is achieved when the first and second histograms are similar as determined by comparing the first and second datasets. However, in an effort to move this case towards allowance, Claims 1, 13 and 17 have been amended to clearly recite the overall purpose of the invention as finding a target set within datasets wherein the target is represented by the first histogram and that the elements related to comparing identify if the second histogram is a match for the target resulting in the target being found. The Applicants, respectfully, assert that there should be no question that the amended claims define statutory subject matter. Initially, a target is originally determined and datasets are searched for that target. The final result is an identification of the found target within datasets. Prior performing the invention there only existed datasets with no knowledge of the contents or location of the contents in the datasets. The result of performing the invention is the tangible and concrete result of knowing where the target exists within datasets which was not previously known. Accordingly, the Applicant believes that there can be no question that the amended claims recite statutory subject matter.

The Office Action rejects Claims 13-16 under the provisions of 35 U.S.C. §101. The Examiner's position is that independent Claim 13 recites a computer program that claiming a computer program is inherently non-statutory. The Applicant would like to, respectfully, point out that the guidelines contained within the MPEP at §2106 relating to Patentable Subject Matter for Computer-Related Inventions states that "computer-related inventions include inventions implemented in a computer and inventions employing computer-readable media." The MPEP at §2106 continues to state the "Office personnel will no longer begin examination by determining if a claim recites a 'mathematical algorithm.' Rather they will review the complete specification, including the detailed description of the invention, any specific embodiments that have been disclosed, the claims and any specific, substantial, and credible utilities that have been asserted for the invention." The MPEP at §2106 further continues to state that the claimed invention must produce a "useful, concrete and tangible result." *State Street*, 149 F.3d at 1373, 47 USPQ2d at 1601-02. The Applicant, respectfully, asserts that Claims 13-16 define subject matter that produce a useful, concrete and tangible result. In an effort to move

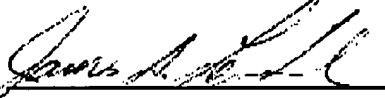
this case towards allowance, Claim 13 has been amended as previously discussed to clearly recite the tangible result of identifying a target within datasets. The Applicant asserts that identifying a target within datasets is a practical application that is a useful, concrete and tangible result. Therefore, the foregoing amendment to Claim 13 should alleviate any potential concern related to reciting statutory subject matter.

In an effort to move the present application for invention towards allowance, the Applicants have amended the claims to the invention.

Applicant is not aware of any additional patents, publications, or other information not previously submitted to the Patent and Trademark Office which would be required under 37 C.F.R. 1.99.

In view of the foregoing amendment and remarks, the Applicant believes that the present application is in condition for allowance, with such allowance being, respectfully, requested.

Respectfully submitted,

By 

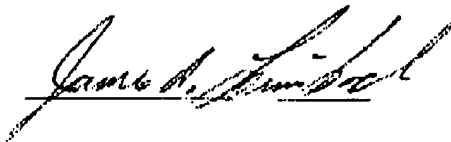
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